

☒ **New Matter**

☐ **Amendment Relating to a Pending Matter**

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: FRESENIUS
GRANUFLO/NATURALYTE DIALYSATE
PRODUCTS LIABILITY LITIGATION**

This Document Relates to:

**Stephanie Payne, individually and as
Administrator of the Estate Of
Patricia Batts**

§
§
§
§
§
§
§
§
§
§

MDL NO. 1:13-MD-2428-DPW

**SHORT-FORM COMPLAINT
AND DEMAND FOR JURY
TRIAL**

The Plaintiff(s) named below file this *Short-Form Complaint* against the Defendants named below and incorporate *The Master Complaint and Jury Demand* filed in MDL No. 2428 by reference. Plaintiff selects and indicates by checking-off where requested, those products, Parties and claims that are specific to his or her case. Plaintiffs (s) further allege as follows:

1. Plaintiff: Estate of Patricia Batts
2. Plaintiff's Spouse (*if applicable*) N/A
3. Other Plaintiff and capacity, if applicable (*i.e.*, administrator, executor, guardian, conservator, etc.) Stephanie Payne, Individually and as Administrator of the Estate of Patricia Batts.
4. State of Residence: Washington, DC
- 5a. ☒ By checking here, I choose Massachusetts as the "home" forum.
- 5b. If you did not chose Massachusetts as the "home" forum, identify the United States District Court and Division in which venue would be proper absent direct filing_____
6. Defendant(s)

☒ **FRESENIUS MEDICAL CARE HOLDINGS, INC.**

- ☒ FRESenius MEDICAL CARE HOLDINGS, INC. d/b/a FRESenius MEDICAL CARE NORTH AMERICA
- ☒ FRESenius USA, INC.
- ☒ FRESenius USA MANUFACTURING, INC.
- ☒ FRESenius USA MARKETING, INC.
- ☒ FRESenius USA SALES, INC.
- ☒ FRESenius MEDICAL CARE AG & CO. KGaA.
- ☒ FRESenius MEDICAL CARE MANAGEMENT AG.
- ☒ FRESenius SE & CO. KGaA.
- ☒ FRESenius MANAGEMENT SE.
- ☐ Other _____

7. Basis of Jurisdiction

- ☒ Diversity of Citizenship
- ☐ Other: _____

Other allegations of jurisdiction and venue:

8. On or about May 29, 2009 Plaintiff had the following injury: sudden cardiac arrest which is alleged to have been caused by Defendants NaturaLyte and/or GranuFlo administered to Plaintiff for dialysis treatment at Renal Advantage, 5652 Silver Hill Road, District Heights, MD 20747.

9. The following claims asserted in *The Master Complaint and Jury Demand*, and the allegations with regard thereto, are herein adopted by reference:

- ☒ Count I – STRICT LIABILITY
- ☒ Count II – NEGLIGENCE FAILURE TO WARN
- ☒ Count III – NEGLIGENCE DESIGN
- ☒ Count IV – NEGLIGENCE

- ☒ Count V – NEGLIGENT MISREPRESENTATION
- ☒ Count VI – BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
- ☒ Count VII – BREACH OF IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE
- ☒ Count VIII – BREACH OF EXPRESS WARRANTY
- ☒ Count IX – FRAUD
- ☒ Count X – VIOLATION OF CONSUMER PROTECTION LAWS
- ☒ Count XI – LOSS OF CONSORTIUM
- ☒ Count XII – WRONGFUL DEATH
- ☒ Count XIII – SURVIVAL ACTION
- ☐ Other Count(s) (*See* FN 1)

10. Plaintiff asserts the following additional theories against the Defendants identified in Paragraph 6 above (*See* FN 1):

11. Plaintiff asserts the following additional theories against Defendants other than those identified in Paragraph 6 above (*See* FN 1):

WHEREFORE, Plaintiffs pray for relief as set forth in *The Master Complaint and Jury*

Demand filed in MDL No. 2428.

DATED June 10, 2014

RESPECTFULLY SUBMITTED,

/s/ Timothy S. Peck
THE MILLER FIRM, LLC
Michael J. Miller, VA Bar No. 19171
Timothy S. Peck, VA Bar No. 75293
108 Railroad Avenue
Orange, VA 22960
Ph. (540) 672-4224
Fax (540) 672-3055

Attorneys for the Plaintiffs